



January 30, 2004

HOUSE BILL No. 1221

DIGEST OF HB 1221 (Updated January 26, 2004 7:58 pm - DI 105)

Citations Affected: IC 5-10; IC 27-8; IC 27-13; noncode.

Synopsis: Insurance coverage for infertility. Provides that: (1) the state personnel department must consider providing coverage for the diagnosis and treatment of infertility; and (2) a health insurer and a health maintenance organization must offer coverage for the diagnosis and treatment of infertility.

Effective: July 1, 2004.

Young D, Summers

January 15, 2004, read first time and referred to Committee on Insurance, Corporations and Small Business.

January 29, 2004, amended, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.

C
o
p
y

HB 1221—LS 6587/DI 105+



January 30, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1221

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10-8-7.9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2004]: **Sec. 7.9. (a) As used in this section, "covered individual"**
4 **means a person who is:**

- 5 (1) **covered under a self-insurance program established under**
6 **section 7(b) of this chapter to provide health care coverage; or**
7 **(2) entitled to services under a contract entered into under**
8 **section 7(c) of this chapter to provide health services through**
9 **a prepaid health care delivery plan.**

10 **(b) As used in this section, "health care plan" means:**

- 11 (1) **a self-insurance program established under section 7(b) of**
12 **this chapter to provide health care coverage; or**
13 **(2) a contract entered into under section 7(c) of this chapter**
14 **to provide health services through a prepaid health care**
15 **delivery plan.**

16 **(c) As used in this section, "infertility" means the inability to**
17 **conceive a child after one (1) year of unprotected sexual**

HB 1221—LS 6587/DI 105+



C
o
p
y

intercourse or the inability to sustain a successful pregnancy.

(d) When determining benefits under a health care plan, the state personnel department shall consider providing coverage for the diagnosis and treatment of infertility in a:

(1) self-insurance program established under section 7(b) of this chapter; and

(2) contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

(e) Subject to subsections (f) and (h), the coverage for the diagnosis and treatment of infertility that must be considered includes the following procedures:

(1) In vitro fertilization.

(2) Assisted hatching.

(3) Embryo transfer.

(4) Artificial insemination.

(5) Gamete intrafallopian tube transfer.

(6) Zygote intrafallopian tube transfer.

(7) Intracytoplasmic sperm injection.

(8) Transvaginal assisted ovulation.

(9) Cryopreservation.

(f) Subject to subsection (h), if the state personnel department elects to cover procedures for in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer the coverage applies only if:

(1) the covered individual has not been able to attain or sustain a successful pregnancy through reasonable, less costly, medically appropriate infertility treatments for which coverage is available under the health care plan;

(2) the covered individual has undergone not more than three

(3) oocyte retrievals, except as provided in subsection (g);

(3) the procedures for in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer are performed at medical facilities that conform to the guidelines of the American College of Obstetricians and Gynecologists for in vitro fertilization clinics; and

(4) the procedure is performed by a physician whose practice involves the diagnosis or treatment of infertility for at least fifty percent (50%) of the physician's patients.

(g) If the state personnel department elects to cover procedures for in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer, subsection (f)(2) does not relieve a health care plan of the obligation to provide coverage to

C
o
p
y



a covered individual who has undergone at least four (4) oocyte retrievals if the covered individual, since giving birth to a living child, has had fewer than two (2) oocyte retrievals.

(h) The state personnel department is not required to provide coverage for a procedure under subsection (e) if the procedure involves the disposal of fertilized eggs.

SECTION 2. IC 27-8-14.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 14.3. Coverage for Infertility Treatment

Sec. 1. As used in this section, "infertility" has the meaning set forth in IC 5-10-8-7.9.

Sec. 2. (a) As used in this chapter, "policy of accident and sickness insurance" means an insurance policy that:

- (1) provides at least one (1) of the kinds of insurance described in Class 1(b) or 2(a) of IC 27-1-5-1; and
- (2) is written on an individual or a group basis.

(b) The term does not include the following:

- (1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.
- (2) Coverage issued as a supplement to liability insurance.
- (3) Automobile medical payment insurance.
- (4) A specified disease policy.
- (5) A limited benefit health insurance policy.
- (6) A short term insurance plan that:
 - (A) may not be renewed; and
 - (B) has a duration of not more than six (6) months.
- (7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.
- (8) Worker's compensation or similar insurance.
- (9) A student health insurance policy.

Sec. 3. (a) Except as provided in subsection (b), a policy of accident and sickness insurance that provides pregnancy related benefits may not be issued, delivered, amended, or renewed in Indiana unless it offers coverage for the diagnosis and treatment of infertility.

(b) This chapter does not require an offer of coverage for the diagnosis and treatment of infertility in a policy of accident and sickness insurance that is issued to:

- (1) a religious institution or organization; or
- (2) an entity sponsored by a religious institution or

C
o
p
y



organization;
that finds the procedures in section 4 of this chapter incompatible with its religious and moral teachings and beliefs.

Sec. 4. Subject to sections 5 and 6 of this chapter, the coverage for the diagnosis and treatment of infertility that must be offered by a policy of accident and sickness insurance under this chapter includes the following procedures:

- (1) In vitro fertilization.
- (2) Assisted hatching.
- (3) Embryo transfer.
- (4) Artificial insemination.
- (5) Gamete intrafallopian tube transfer.
- (6) Zygote intrafallopian tube transfer.
- (7) Intracytoplasmic sperm injection.
- (8) Transvaginal assisted ovulation.
- (9) Cryopreservation.

Sec. 5. (a) Subject to section 6 of this chapter, an insurer is required under this chapter to cover procedures for in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer for an insured individual only if the insured individual accepts an offer of coverage and:

- (1) the individual has not been able to attain or sustain a successful pregnancy through reasonable, less costly, medically appropriate infertility treatments for which coverage is available under the policy;
- (2) the individual has undergone not more than three (3) oocyte retrievals, except as provided in subsection (b);
- (3) the procedures for in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer are performed at medical facilities that conform to the guidelines of the American College of Obstetricians and Gynecologists for in vitro fertilization clinics; and
- (4) the procedure is performed by a physician whose practice involves the diagnosis or treatment of infertility for at least fifty percent (50%) of the physician's patients.

(b) Subsection (a)(2) does not relieve an insurer of the obligation to cover an individual who has accepted an offer of coverage and who has undergone at least four (4) oocyte retrievals if the individual, since giving birth to a living child, has had fewer than two (2) oocyte retrievals.

Sec. 6. An insurer is not required to offer coverage for a procedure under section 4 of this chapter if the procedure involves

C
o
p
y



1 the disposal of fertilized eggs.

2 SECTION 3. IC 27-13-7-19 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2004]: Sec. 19. (a) As used in this section, "infertility" has the
5 meaning set forth in IC 5-10-8-7.9.

6 (b) Except as provided in subsection (c), an individual contract
7 or a group contract with a health maintenance organization that
8 provides pregnancy related benefits may not be entered into,
9 delivered, amended, or renewed in Indiana unless it offers coverage
10 for the diagnosis and treatment of infertility.

11 (c) This chapter does not require an offer of coverage for the
12 diagnosis and treatment of infertility in a group contract that is
13 entered into with:

14 (1) a religious institution or organization; or

15 (2) an entity sponsored by a religious institution or
16 organization;

17 that finds the procedures in subsection (d) incompatible with its
18 religious and moral teachings and beliefs.

19 (d) Subject to subsections (e) and (g), the coverage for the
20 diagnosis and treatment of infertility that must be offered by an
21 individual contract or a group contract under this section includes
22 the following procedures as in-plan covered services or out-of-plan
23 covered services:

24 (1) In vitro fertilization.

25 (2) Assisted hatching.

26 (3) Embryo transfer.

27 (4) Artificial insemination.

28 (5) Gamete intrafallopian tube transfer.

29 (6) Zygote intrafallopian tube transfer.

30 (7) Intracytoplasmic sperm injection.

31 (8) Transvaginal assisted ovulation.

32 (9) Cryopreservation.

33 (e) Subject to subsection (g), a health maintenance organization
34 is required under this section to cover procedures for in vitro
35 fertilization, gamete intrafallopian tube transfer, or zygote
36 intrafallopian tube transfer for an enrollee only if the enrollee
37 accepts an offer of coverage and:

38 (1) the enrollee has not been able to attain or sustain a
39 successful pregnancy through reasonable, less costly,
40 medically appropriate infertility treatments that are in-plan
41 covered services available under the individual contract or the
42 group contract;

C
o
p
y



(2) the enrollee has undergone not more than three (3) oocyte retrievals, except as provided in subsection (f);

(3) the procedures for in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer are performed at medical facilities that conform to the guidelines of the American College of Obstetricians and Gynecologists for in vitro fertilization clinics; and

(4) the procedure is performed by a physician whose practice involves the diagnosis or treatment of infertility for at least fifty percent (50%) of the physician's patients.

(f) Subsection (e)(2) does not relieve a health maintenance organization of the obligation to cover an individual who has accepted an offer of coverage and who has undergone at least four (4) oocyte retrievals if the individual, since giving birth to a living child, has had fewer than two (2) oocyte retrievals.

(g) A health maintenance organization is not required to offer coverage for a procedure under subsection (d) if the procedure involves the disposal of fertilized eggs.

SECTION 4. [EFFECTIVE JULY 1, 2004] (a) IC 5-10-8-7.9, as added by this act, applies to a self-insurance program or a contract to provide health services through a prepaid health care delivery plan that is established, delivered, entered into, or renewed after June 30, 2004.

(b) IC 27-8-14.3, as added by this act, applies to policies issued, delivered, amended, or renewed after June 30, 2004.

(c) IC 27-13-7-19, as added by this act, applies to contracts entered into, delivered, amended, or renewed after June 30, 2004.

C
O
P
Y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1221, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 2, delete "A self-insurance program established under section 7(b) of" and insert **"When determining benefits under a health care plan, the state personnel department shall consider providing coverage for the diagnosis and treatment of infertility in a:**

(1) self-insurance program established under section 7(b) of this chapter; and

(2) contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter."

Page 2, delete lines 3 through 9.

Page 2, line 10, delete "(f)" and insert "(e)".

Page 2, line 10, delete "(g)" and (i)," and insert **"(f) and (h),"**

Page 2, line 11, delete "provided to a" and insert **"considered"**.

Page 2, line 12, delete "covered individual under this section".

Page 2, line 23, delete "(g)" and insert **"(f)"**.

Page 2, line 23, delete "(i)," and insert **"(h),"**.

Page 2, line 23, delete "a health care plan is required under" and insert **"if the state personnel department elects"**.

Page 2, line 24, delete "this chapter".

Page 2, line 26, delete "for a covered individual" and insert **"the coverage applies"**.

Page 2, line 32, delete "(h);" and insert **"(g);"**.

Page 2, line 41, delete "(h) Subsection (g)(2)" and insert **"(g) If the state personnel department elects to cover procedures for in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer, subsection (f)(2)"**.

Page 3, line 4, delete "(i) A health care plan may not cover" and insert **"(h) The state personnel department is not required to provide coverage for"**.

Page 3, line 5, delete "(f)" and insert **"(e)"**.

Page 3, line 36, delete "provides" and insert **"offers"**.

Page 3, line 38, after "require" insert **"an offer of"**.

Page 4, line 5, delete "provided" and insert **"offered"**.

Page 4, line 20, after "if" delete ":" and insert **"the insured individual accepts an offer of coverage and:"**.

Page 4, line 36, after "has" insert **"accepted an offer of coverage"**

C
o
p
y



and who has".

Page 4, line 39, delete "may not cover" and insert **"is not required to offer coverage for"**.

Page 5, line 6, delete "provides" and insert **"offers"**.

Page 5, line 8, after "require" insert **"an offer of"**.

Page 5, line 17, delete "provided" and insert **"offered"**.

Page 5, line 33, after "if" delete ":" and insert **"the enrollee accepts an offer of coverage and:"**.

Page 6, line 8, after "has" insert **"accepted an offer of coverage and who has"**.

Page 6, line 12, delete "may not cover" and insert **"is not required to offer coverage for"**.

and when so amended that said bill do pass.

(Reference is to HB 1221 as introduced.)

FRY, Chair

Committee Vote: yeas 7, nays 5.

**C
o
p
y**

